

cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund. In the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in §1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

- (1) The month, and identity of the producer;
- (2) The daily and total pounds and the total pounds of butterfat content of producer milk;
- (3) The minimum rate at which payment to the producer is required pursuant to the order in this part;
- (4) The rate used in making payments if the rate is other than the applicable minimum rate;
- (5) The amount, rate per hundred-weight, and nature of each deduction claimed by the handler; and
- (6) The net amount of payment to the producer or cooperative association.

[64 FR 48010, Sept. 1, 1999, as amended at 65 FR 32010, May 22, 2000]

§ 1131.74 [Reserved]

§ 1131.75 Plant location adjustments for producers and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1131.51 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1131.73 and 1000.76.

§ 1131.76 Payments by handler operating a partially regulated distributing plant.

See § 1000.76.

§ 1131.77 Adjustment of accounts.

See § 1000.77.

§ 1131.78 Charges on overdue accounts.

See § 1000.78.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1131.85 Assessment for order administration.

See § 1000.85.

§ 1131.86 Deduction for marketing services.

See § 1000.86.

PARTS 1132–1134 [RESERVED]

PART 1135—MILK IN THE WESTERN MARKETING AREA

AUTHORITY: 7 U.S.C. 601–674, and 7253.

Subpart—Order Regulating Handling

§ 1135.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to this part 1135. In this part 1135, all references to sections in part 1000 refer to part 1000 of this chapter.

[64 FR 48015, Sept. 1, 1999]

PARTS 1136–1139 [RESERVED]

PART 1140—DAIRY FORWARD PRICING PILOT PROGRAM

Subpart A—Definitions

Sec.
1140.1 Definitions.

Subpart B—Rules Governing Forward Contracts

1140.2 Rules governing forward contracts.
AUTHORITY: 7 U.S.C. 601 *et seq.*

§ 1140.1

SOURCE: 65 FR 44413, July 18, 2000, unless otherwise noted.

Subpart A—Definitions

§ 1140.1 Definitions.

(a) *Pilot program* means the dairy forward pricing pilot program provided by an amendment to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 *et seq.*) signed into law on November 29, 1999 (Section 3 of H.R. 3428 of the 106th Congress, as enacted by section 1001(a)(8) of Public Law 106-113 (113 Stat. 1536)).

(b) *Eligible milk* means the quantity of milk equal to the contracting handler's Class II, III, and IV utilization of producer milk, in product pounds, during the month, combining all plants of a single handler regulated under the same Federal order.

(c) *Forward contract* means an agreement covering the terms and conditions for the sale of milk from a producer defined in §§1001.12, 1005.12, 1006.12, 1007.12, 1030.12, 1032.12, 1033.12, 1124.12, 1126.12, 1131.12, and 1135.12, or a cooperative association defined in §1000.18, and a handler defined in §1000.9 or 1135.9.

(d) *Contract milk* means the producer milk covered by a forward contract.

(e) *Disclosure statement* means the following statement which must be signed by each producer entering into a forward contract with a handler before the market administrator will recognize the terms and conditions provided in such contract.

DISCLOSURE STATEMENT

I am voluntarily entering into a forward contract with _____ (handler's name). I have been given a copy of the contract and I have received the USDA's Pilot Program Fact Sheet to which this disclosure statement was attached. By signing this form, I understand that I am forfeiting my right to receive the order's minimum prices for that portion of my milk that is under forward contract for the duration of the contract. I also understand that my milk will be priced in accordance with the terms and conditions of the contract.

Printed Name: _____
Signature: _____
Date: _____
Address: _____
Producer No: _____

7 CFR Ch. X (1-1-08 Edition)

(f) *Other definitions.* The definition of any term in parts 1000-1135 of this chapter apply to, and are hereby made a part of, this part.

Subpart B—Rules Governing Forward Contracts

§ 1140.2 Rules governing forward contracts.

(a) Any handler defined in §§1000.9 and 1135.9 may enter into forward contracts with producers or cooperative associations for the handler's eligible milk. Milk under forward contract in compliance with these rules will be exempt from the minimum payment provisions that would apply to such milk pursuant to §§1001.73, 1005.73, 1006.73, 1007.73, 1030.73, 1032.73, 1033.73, 1124.73, 1126.73, 1131.73 and 1135.73 for the period of time covered by the contract.

(b) A forward contract with a producer or cooperative association participating for the first time in this pilot program may not exceed 12 months. In no event shall a forward contract executed pursuant to this part extend beyond December 31, 2004.

(c) Forward contracts must be signed and dated by the contracting handler and producer (or cooperative association) prior to the 1st day of the 1st month for which they are to be effective and must be in the possession of the market administrator by the 15th day of that month.¹ The disclosure statement provided in §1140.1(e) must be signed on the same date as the contract by each producer entering into a forward contract under the pilot program, and this signed disclosure statement must be attached to each contract submitted to the market administrator.

(d) In the event that a handler's contract milk exceeds the handler's eligible milk for any month in which the specified contract price(s) are below the order's minimum prices, the handler must designate which producer milk shall not be contract milk. If the handler does not designate the suppliers of the over-contracted milk, the market administrator shall prorate the

¹Contracts that have been signed prior to the effective date of these rules are invalid under the pilot program.

Agricultural Marketing Service, USDA

§ 1150.101

over-contracted milk to each producer and cooperative association having a forward contract with the handler.

(e) Payments for milk covered by a forward contract must be made on or before the dates applicable to payments for milk that is not under forward contract under the respective Federal order.

(f) Handlers participating in the pilot program will continue to be required to file all reports that are currently required under the respective marketing orders and will continue to be required to account to the pool for all milk they receive at their respective order's minimum class prices.

(g) Nothing in this part shall impede the contractual arrangements that exist between a cooperative association and its members.

PART 1150—DAIRY PROMOTION PROGRAM

Subpart—Dairy Promotion and Research Order

DEFINITIONS

- Sec.
- 1150.101 Act.
 - 1150.102 Department.
 - 1150.103 Secretary.
 - 1150.104 Board.
 - 1150.105 Person.
 - 1150.106 United States.
 - 1150.107 Fiscal period.
 - 1150.108 Eligible organization.
 - 1150.109 Qualified State or regional program.
 - 1150.110 Producer.
 - 1150.111 Milk.
 - 1150.112 Dairy products.
 - 1150.113 Fluid milk products.
 - 1150.114 Promotion.
 - 1150.115 Research.
 - 1150.116 Nutrition education.
 - 1150.117 Plans and projects.
 - 1150.118 Marketing.
 - 1150.119 Cooperative association.

NATIONAL DAIRY PROMOTION AND RESEARCH BOARD

- 1150.131 Establishment and membership.
- 1150.132 Term of office.
- 1150.133 Nominations.
- 1150.134 Nominee's agreement to serve.
- 1150.135 Appointment.
- 1150.136 Vacancies.
- 1150.137 Procedure.
- 1150.138 Compensation and reimbursement.
- 1150.139 Powers of the Board.
- 1150.140 Duties of the Board.

EXPENSES AND ASSESSMENTS

- 1150.151 Expenses.
- 1150.152 Assessments.
- 1150.153 Qualified State or regional dairy product promotion, research or nutrition education programs.
- 1150.154 Influencing governmental action.
- 1150.155 Adjustment of accounts.
- 1150.156 Charges and penalties.
- 1150.157 Assessment exemption.

PROMOTION, RESEARCH AND NUTRITION EDUCATION

- 1150.161 Promotion, research and nutrition education.

REPORTS, BOOKS AND RECORDS

- 1150.171 Reports.
- 1150.172 Books and records.
- 1150.173 Confidential treatment.

MISCELLANEOUS

- 1150.181 Proceedings after termination.
- 1150.182 Effect of termination or amendment.
- 1150.183 Personal liability.
- 1150.184 Patents, copyrights, inventions and publications.
- 1150.185 Amendments.
- 1150.186 Separability.
- 1150.187 Paperwork Reduction Act assigned number.

Subpart—Procedure for Certification of Milk Producer Organizations

- 1150.270 General.
- 1150.271 Definitions.
- 1150.272 Responsibility for administration of regulations.
- 1150.273 Application for certification.
- 1150.274 Certification standards.
- 1150.275 Inspection and investigation.
- 1150.276 Review of certification.
- 1150.277 Listing of certified organizations.
- 1150.278 Confidential treatment.

AUTHORITY: 7 U.S.C. 4501-4514 and 7 U.S.C. 7401

SOURCE: 49 FR 11816, Mar. 28, 1984, unless otherwise noted.

Subpart—Dairy Promotion and Research Order

DEFINITIONS

§ 1150.101 Act.

Act means Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98-180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.